

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION**

Kenneth T. Ritchey,)	CASE NO. 1:98 CV 1418
)	
Petitioner,)	JUDGE PATRICIA A. GAUGHAN
)	
vs.)	
)	
Betty Mitchell, Warden,)	<u>Order</u>
)	
Respondent.)	

In accordance with the Opinion of the United States Court of Appeals for the Sixth Circuit, issued in this matter on January 25, 2005 (No. 01-3477), and the mandate issued thereafter, a conditional writ of habeas corpus is hereby granted giving the State of Ohio 90 days to retry petitioner or release him from custody. The 90-day period begins to run as of the date of the issuance of this writ in that the Sixth Circuit remanded this case for issuance of the writ, as opposed to issuing the conditional writ itself. Thus, the only logical conclusion is that the time begins to run from the date on which the writ is actually issued. Moreover, the Sixth Circuit's

opinion and mandate are silent on the issue. *Compare, Frazier v. Huffman*, 348 F.3d 174 (6th Cir. 2003)(expressly indicating that time period is triggered by date Sixth Circuit's judgment becomes final).

IT IS SO ORDERED.

/s/ Patricia A. Gaughan

PATRICIA A. GAUGHAN
United States District Judge

Dated: 6/3/05